

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
EASTERN DIVISION**

**JOHN W. BARTLETT and  
BARBARA C. BARTLETT,**

**Plaintiffs,**

**VS.**

DENNIS G. PRESTON, *et al.*,

## Defendants.

**Case No. 1:10-CV-1620-PWG**

## MEMORANDUM OPINION AND ORDER

The magistrate judge filed an order on September 7, 2012 (doc. 115), recommending that defendant Brenda Preston's motion to dismiss (doc. 97), construed as a motion for summary judgment, be DENIED. The parties were allowed an opportunity in which to file objections. No objections have been received from either party.

Having carefully reviewed and considered *de novo* all the materials in the court file, the Court is of the opinion that the magistrate judge's findings are due to be and are hereby ADOPTED, and his recommendation is ACCEPTED. Defendant's motion to dismiss (doc. 79) is due to be and hereby is DENIED.

DONE this 25th day of September, 2012.

Lynwood Smith

United States District Judge